

Appln No. 10/628,675

Response date November 11, 2004

Reply to Office action of August 11, 2004

**REMARKS/ARGUMENTS**

Claims 2-31 are now in the application. No claims have been added, cancelled or amended. Reconsideration and reexamination of the above identified patent application is hereby requested.

The Examiner has rejected Claims 2-18, 20-26 and 28-31 under 35 U.S.C. §103(a) as being unpatentable over Lewis et al. (US 6,601,209) ("Lewis") in view of Milewski et al. (US 6,519,326) ("Milewski"). The Examiner has also rejected Claims 19 and 27 under 35 U.S.C. §103(a) as being unpatentable over Lewis in view of Milewski and in further view of Lewis et al. (US 6,725,372).

The Applicant submits that the invention as claimed in Claim 2 is neither taught, described or suggested in Lewis, even in view of Milewski.

Claim 2 calls for in part, "A transmitter coupled to a non-dedicated local area network channel for transmitting non-telephone data packets over the channel". (emphasis added). The Examiner states that "Lewis does not explicitly teach the wireless internet communication channel is [a] non-dedicated local area network channel" (Office Action, p.3, emphasis added). The Examiner goes on to state, however, that the network 120 of Milewski teaches a non-dedicated communication link and renders Claim 2 of the present application obvious when combined with the teachings of Lewis.

The Applicant respectfully submits that Milewski does not disclose a local area network channel as called for in Claim 2.

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The network 120 of Milewski connects the PCs 108 and 158 which reside at separate locations, each having an associated telephone 110 connected by the publicly switched telephone network 130. Milewski does not disclose that the network 120 may be used to connect several devices at the same location to form a local area network channel according to Claim 2. While Milewski discloses that "[the] network 120 is not merely a private internal network that uses dedicated cabling to interconnect all users" (Milewski, col. 2 lines 64-66, emphasis added), Applicant respectfully submits that in light of the lack of support in Milewski for any sort of local network architecture for the network 120, the word "merely" is use here as a descriptive term referring to the capabilities of private internal networks in the abstract sense, and does not imply that the network 120 encompasses such private networks as well as further publicly accessible embodiments.

Further, The Applicant respectfully submits that Milewski does not disclose a non-dedicated channel as called for in Claim 2. While Milewski states "[the] network 120 is a publicly accessible network, or non-dedicated communications medium, one example of which is the internet" (Milewski, col. 2, line 66 - col. 3, line 1, emphasis added), as is known to one skilled in the art, non-dedicated channel is a channel used for supporting the transmission of data in addition to other applications such as for example home telephone traffic or power transmission. However, Milewski does not disclose that network 120 may be used to support any separate applications in addition to the data communicated from the PC 105 to the PC 155. As such, the

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network 120 of Milewski does not disclose a non-dedicated channel according to Claim 2 of the presently claimed invention.

Accordingly, because Applicant's Claim 2 calls for in part, "A transmitter coupled to a non-dedicated local area network channel for transmitting non-telephone data packets over the channel", and because neither Lewis nor Milewski disclose a channel that is both non-dedicated and is a local area network, the Applicant submits that Claim 2 is not unpatentable over Lewis in view of Milewski.

Furthermore, the Applicant submits in the alternative that even if Milewski were to disclose a non-dedicated local area network channel as called for in Claim 2, it still would not have been obvious to one skilled in the art to apply the teachings of Lewis thereto to overcome the unique problems associated with such a channel. As disclosed on page 1, line 29 through page 2, line 1 of the specification, non-dedicated local area network channels are susceptible to random burst, and/or even additive white gaussian noise, channel errors and as such are not ideal communication media. Current networking standards such as the HPNA ("Home Phone Networking Alliance") 2.0 standard utilize transmissions over local area network channels which are uncoded save for cyclical redundancy checks (CRCs) used in conjunction with an automatic repeat request (ARQ) algorithm. These standard does not feature the added complexity of the video encoder 18, the BCH link coding 20, RSlink coding 21, interleaver 22 and modulator 24 of Fig. 1 disclosed in Lewis.

The presently claimed invention calls for a non-dedicated local area network channel which is different than the non-

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dedicated, non-local networks taught by the cited references, namely the wireless internet communication channel 16 of Lewis and the non-local dedicated network 120 of Milewski. The channels of Lewis and Milewski have noise and error propagation characteristics distinct from the non-dedicated local area network channel of Claim 2, and as such it would not be obvious to one skilled in the art to apply to such channels additional encoding and interleaving equipment, thus increasing the complexity of the network architecture. Thus, the Applicant submits for these additional reasons that Claim 2 is not unpatentable over Lewis in view of Milewski.

Claims 3-8 are dependent on Claim 2. As such, Claims 3-8 are believed allowable based upon Claim 2 and for the additional limitations contained therein.

The Applicant additionally submits that the invention as claimed in Claim 9 is neither taught, described, nor suggested in Lewis, even in view of Milewski.

Claim 9 calls for in part, "A receiver coupled to a non-dedicated local area network channel for receiving modulated interleaved encoded non-telephone data packets from the channel". (emphasis added). Because neither Lewis nor Milewski disclose a non-dedicated local area network channel, and because it would not be obvious to one skilled in the art to combine the teachings of Lewis with a non-dedicated local area network channel, the Applicant submits that Claim 9 is not unpatentable over Lewis in view of Milewski.

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Claims 10-15 are dependent on Claim 9. As such, Claims 10-15 are believed allowable based upon Claim 9 and for the additional limitations contained therein.

The Applicant additionally submits that the invention as claimed in Claim 16 is neither taught, described, nor suggested in Lewis, even in view of Milewski.

Claim 16 calls for in part, "A communications circuit for use with a computer for transmitting non-telephone data packets over a non-dedicated local area network channel". (emphasis added). Because neither Lewis nor Milewski disclose a non-dedicated local area network channel, and because it would not be obvious to one skilled in the art to combine the teachings of Lewis with a non-dedicated local area network channel, the Applicant submits that Claim 16 is not unpatentable over Lewis in view of Milewski.

Claims 17-23 are dependent on Claim 16. As such, Claims 17-23 are believed allowable based upon Claim 16 and for the additional limitations contained therein.

The Applicant additionally submits that the invention as claimed in Claim 24 is neither taught, described, nor suggested in Lewis, even in view of Milewski.

Claim 24 calls for in part, "A communications circuit for use with a computer for receiving modulated encoded interleaved non-telephone data packets from a non-dedicated local area network channel and processing these packets". (emphasis added). Because neither Lewis nor Milewski disclose a non-dedicated

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local area network channel, and because it would not be obvious to one skilled in the art to combine the teachings of Lewis with a non-dedicated local area network channel, the Applicant submits that Claim 24 is not unpatentable over Lewis in view of Milewski.

Claims 25-31 are dependent on Claim 24. As such, Claims 25-31 are believed allowable based upon Claim 24 and for the additional limitations contained therein.

Accordingly, in view of the above remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. Reconsideration and reexamination of the above Application is requested.

The first enclosed form PTO-1449 was submitted by the Applicant on July 28, 2004. The references listed thereon have not been initialed by the Examiner. It is respectfully requested that the Examiner return the form to the Applicants after initializing the references indicating that they were expressly considered by the Examiner.

In addition, the second enclosed form PTO-1449 was submitted by the Applicant on April 7, 2004. While the domestic references listed thereon were initialed by the Examiner, the two foreign references, namely WO 98/43374 published on October 1, 1998 and WO 99/04338 published on January 28, 1999 have not been initialed by the Examiner. The Examiner has indicated that these documents have not been provided by the Applicant.

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However, the Applicant respectfully submits that these references were not enclosed with the form PTO-1449 because they were of record in the parent application, Application No. 09/573,243, filed May 18, 2000.

As a courtesy to the Examiner, Applicant is submitting copies of these references herewith. Applicants respectfully request confirmation of these copies by receiving an initialed PTO/SB/08B form for their file.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

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